

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ARTURO TORRES OCHOA,

*Plaintiff,*

vs.

D. ESQUIVER, *et al.*,

*Defendants.*

3:13-cv-00500-RCJ-WGC

ORDER

This prison civil rights action comes before the Court on plaintiff's application to proceed *in forma pauperis* (#1) seeking to initiate a civil rights action.

The pauper application is incomplete. Both a financial certificate properly completed and executed by an authorized institutional officer and a statement of the plaintiff's inmate trust fund account for the past six months are required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2. Plaintiff, a frequent filer who repeatedly has been informed of these requirements, attached neither.

It does not appear from review of the allegations presented that a dismissal without prejudice of the present improperly-commenced action would lead to a promptly-filed new action being untimely or otherwise result in substantial prejudice.

The Court notes in this regard that plaintiff has filed numerous meritless, frivolous and/or delusional actions in this district. As a result, the Court has found plaintiff subject to the "three strikes" provisions of 28 U.S.C. § 1915(g) in 3:10-cv-00483-ECR-VPC (#7). Under § 1915(g), a prisoner who has brought three or more frivolous or meritless actions may not

1 proceed *in forma pauperis*; and he instead must pay the full filing fee in advance, unless he  
2 is under imminent danger of serious physical injury.

3 Plaintiff alleges in the present complaint, *inter alia*, that his food is being poisoned.  
4 This allegation of imminent danger, however, is delusional or frivolous. Plaintiff has made the  
5 same allegation in a number of actions. See, e.g., 3:12-cv-00285-MMD-VPC; 3:12-cv-00276-  
6 HDM-VPC; 3:12-cv-00239-RCJ-VPC. The Court held a hearing on the allegation in 3:12-cv-  
7 00239-RCJ-VPC and confirmed that the allegation indeed is wholly baseless.

8 Plaintiff accordingly will sustain no substantial prejudice from the dismissal of this  
9 improperly commenced action without prejudice to the filing of a properly commenced action.

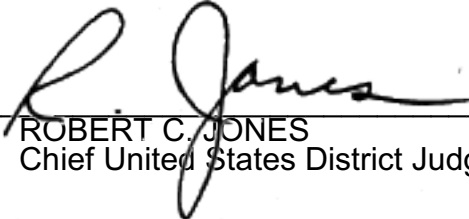
10 IT THEREFORE IS ORDERED that the application to proceed *in forma pauperis* (#1)  
11 is DENIED and that this action shall be DISMISSED without prejudice to the filing of a new  
12 complaint on the required form in a new action together with either a new pauper application  
13 with all required, and new, attachments or payment of the \$350.00 filing fee.

14 IT IS FURTHER ORDERED that all pending motions are DENIED without prejudice,  
15 including all requests for temporary and/or preliminary injunctive relief.

16 The Clerk of Court shall SEND plaintiff a copy of the papers that he filed along with the  
17 complaint and pauper forms and instructions for both forms.

18 The Clerk shall enter final judgment accordingly, dismissing this action without  
19 prejudice.

20 DATED: This 7<sup>th</sup> day of November, 2013.

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24 ROBERT C. JONES  
25 Chief United States District Judge  
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